

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Case No. 2:04-cr-00232-HDM-RJJ

Plaintiff,

V.

ORDER

CHARLES NELSON,

Defendant.

The defendant, Charles Nelson, has filed a "Motion for Time Served" (ECF No. 74) and a motion for appointment of counsel (ECF No. 75).

In February 2010, the defendant was sentenced on a supervised release violation to a term of 21 months with credit for time served. As the defendant was in state custody at the time he appeared before the court for his revocation proceedings, and was thereafter returned to and remains in state custody, the federal sentence has not been completed and a federal hold over the defendant is pending. The defendant asks the court to modify his sentence to time served, in order to remove the federal hold, or alternatively to order him transferred to federal custody so that he may complete his federal sentence.

24 Previously, in April 2016, the defendant filed a motion for
25 a modification of his sentence to time served, which the court
26 denied. The defendant presents no additional information or legal
27 authority to support reconsideration of that decision.

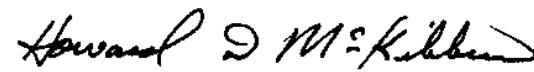
1 Accordingly, the defendant's motion for sentence modification (ECF
2 No. 74) is DENIED.

3 The court lacks authority to order the defendant transferred
4 to federal custody to serve his sentence. *Taylor v. Reno*, 164 F.3d
5 440, 445 (9th Cir. 1998) ("Because the state retained primary
6 jurisdiction, the district court did not have the authority to
7 place [the defendant] into federal custody for the purpose of
8 commencing his federal sentence.") The motion is therefore denied
9 to the extent he seeks a transfer to serve his federal sentence.

10 Finally, the defendant's motion for appointment of counsel
11 (ECF No. 75) is DENIED.

12 IT IS SO ORDERED.

13 DATED: This 17th day of November, 2022.

14
15 
16 UNITED STATES DISTRICT JUDGE
17
18
19
20
21
22
23
24
25
26
27
28